

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING ON
of ARM 17.8.743 pertaining to)	PROPOSED AMENDMENT AND
Montana air quality permits -)	ADOPTION
when required, and adoption of)	
new rules I through VI)	(AIR QUALITY)
pertaining to oil and gas well)	
facilities)	

TO: All Concerned Persons

1. On October 4, 2005, at 10:30 a.m., the Board of Environmental Review will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., September 23, 2005, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email ber@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.8.743 MONTANA AIR QUALITY PERMITS--WHEN REQUIRED

(1) Except as provided in ARM 17.8.744, ~~and~~ 17.8.745 and [NEW RULE II], a person may not construct, install, modify, or operate any of the following without first obtaining a Montana air quality permit issued by the department:

(a) through (5) remain the same.

AUTH: 75-2-111, 75-2-204, MCA

IMP: 75-2-211, MCA

4. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS For the purposes of this subchapter, the following definitions apply:

(1) "Emissions minimizing technology" means a technology that reduces the amount of volatile organic compound (VOC) emissions from oil and gas well facilities through the use of resource recovery as fuel for process units or technology that results in significantly lower emissions of VOCs through the use of vapor capture and introduction into a pipeline.

(2) "Initial well completion date" has the meaning provided in 75-2-211(2)(b), MCA.

(3) "Oil and gas well facility" has the meaning provided

in 75-2-103(13), MCA.

AUTH: 75-2-111, 75-2-211, MCA

IMP: 75-2-211, MCA

NEW RULE II APPLICABILITY AND COORDINATION WITH MONTANA AIR QUALITY PERMIT RULES (1) The requirements of this subchapter apply to oil and gas well facilities that were completed after March 16, 1979, or that were modified after March 16, 1979, and that have the potential to emit (PTE) more than 25 tons per year (TPY) of any airborne pollutant that is regulated under this chapter, 10 TPY or more of any individual hazardous air pollutant (HAP), or 25 TPY or more of any combination of HAPs. For the purposes of this rule, PTE is calculated without regard to any air pollution control equipment used at the facility.

(2) Notwithstanding (1), the requirements of [NEW RULE III] do not apply until July 1, 2006, to oil and gas well facilities completed prior to January 3, 2006.

(3) The owner or operator of an oil and gas well facility shall submit to the department an application for a Montana air quality permit, pursuant to ARM 17.8.748, no later than January 3, 2006, or within 60 days after the initial well completion date for the facility, whichever is later.

(4) An owner or operator who complies with the requirements of this subchapter may construct, install, or use equipment necessary to complete or operate an oil or gas well facility without a permit until the department's decision on the application is final.

AUTH: 75-2-111, 75-2-211, MCA

IMP: 75-2-211, MCA

NEW RULE III EMISSION CONTROL REQUIREMENTS (1) The owner or operator of an oil and gas well facility shall install and operate the following air pollution control equipment and comply with the following air pollution control practices:

(a) volatile organic compound (VOC) vapors greater than 500 British thermal units per standard cubic foot (BTU/scf) from oil and gas wellhead equipment must be routed to a gas pipeline, or, if a gas pipeline is not located within a 1/2 mile of the oil and gas well facility, VOC vapors greater than 500 BTU/scf must be captured and routed to emissions minimizing technology or to a smokeless combustion device equipped with an electronic ignition device or a continuous burning pilot system;

(b) VOC vapors greater than 500 BTU/scf from oil and condensate storage tanks with the PTE of 15 TPY or greater must be captured and routed to a gas pipeline, or if a gas pipeline is not located within a 1/2 mile of the oil and gas well facility, VOC vapors greater than 500 BTU/scf from storage tanks with the PTE of 15 TPY must be captured and routed to emissions minimizing technology, or to a smokeless combustion device equipped with an electronic ignition device or a continuous burning pilot system;

(c) hydrocarbon liquids must be loaded into transport vehicles using submerged fill technology;

(d) VOC vapors greater than 500 BTU/scf from loading transport vehicles with the PTE greater than 15 TPY must be captured and routed to a gas pipeline, or, if a gas pipeline is not located within a 1/2 mile of the oil and gas well facility, VOC vapors greater than 500 BTU/scf from loading transport vehicles with a PTE greater than 15 TPY must be routed to emissions minimizing technology, or to a smokeless combustion device equipped with an electronic ignition device or a continuous burning pilot system;

(e) stationary internal combustion engines of rich burn design greater than 85 brake horsepower (BHP) must be equipped with nonselective catalytic reduction or its equivalent to control air emissions;

(f) stationary internal combustion engines of lean burn design greater than 85 BHP must be equipped with oxidation catalytic reduction or its equivalent to control air emissions; and

(g) oil and gas well facility operations must comply with the ambient air quality standards for hydrogen sulfide and other criteria pollutants.

(2) The owner or operator of an oil and gas well facility shall operate the air pollution control equipment and comply with the air pollution control practices required in (1) from the initial well completion date for the facility until the department decision on the permit application is final.

AUTH: 75-2-111, 75-2-211, MCA

IMP: 75-2-211, MCA

NEW RULE IV INSPECTION AND REPAIR REQUIREMENTS (1) The owner or operator of an oil and gas well facility shall inspect all VOC piping components for leaks each calendar month. Leak detection methods may incorporate the use of sight, sound, or smell.

(2) The owner or operator shall make the first attempt to repair any leaking VOC equipment within five days after the leak is detected.

(3) Any leaking VOC equipment must be repaired as soon as practicable, but no later than 15 days after the leak is initially detected, unless the repair is technically infeasible without a facility shutdown. Such equipment shall be repaired before the end of the first facility shutdown after the leak is initially detected.

AUTH: 75-2-111, 75-2-211, MCA

IMP: 75-2-211, MCA

NEW RULE V RECORDKEEPING REQUIREMENTS (1) The owner or operator of an oil and gas well facility shall record, and maintain onsite or at a central field office, a record of each monthly inspection.

(2) Inspection records must include, at a minimum, the

following information:

- (a) the date of the inspection;
- (b) the findings of the inspection;
- (c) the leak determination method used;
- (d) any corrective action taken; and
- (e) the inspector's name and signature.

(3) All records of inspection and repair must be kept as a permanent business record for at least five years, be available for inspections, and be submitted to the department upon request.

AUTH: 75-2-111, 75-2-211, MCA

IMP: 75-2-211, MCA

NEW RULE VI DELAYED EFFECTIVE DATE (1) The requirements of [NEW RULES I through V] are not effective until January 1, 2006.

AUTH: 75-2-111, 75-2-211, MCA

IMP: 75-2-211, MCA

REASON: Senate Bill 95, passed by the 2005 Montana Legislature and codified as 75-2-103 and 75-2-211, MCA, of the Clean Air Act of Montana, allows the owners or operators of oil and gas well facilities to drill and operate up to 60 days prior to submitting an application for an air quality permit. Section 75-2-211(2)(d), MCA, also states that the Board shall establish air emission control requirements at oil and gas well facilities until the Department issues a decision on a permit application for the facility. If the oil and gas well facility complies with these requirements, SB 95 allows the facility to continue to operate until the Department's decision on the permit application is final.

The Board is proposing to adopt and amend air quality rules to allow the owner or operator of an oil and gas well facility, that otherwise requires an air quality permit, to operate the facility up to 60 days prior to submitting an application for an air quality permit. The proposed rules would require the owner or operator to install and operate certain specified air pollution control equipment and comply with certain air pollution control practices from the well completion date of the oil and gas well facility until the Department's decision on the air quality permit application is final.

Currently, the owners or operators of oil and gas well facilities with the potential to emit more than 25 TPY of any criteria pollutant or 10 TPY or more of any single hazardous air pollutant (HAP) are required to obtain an air quality permit before constructing the well. The proposed new and amended rules would allow the owner or operator of an oil and gas well facility completed after January 3, 2006, to construct and operate equipment essential to complete the well up to 60 days prior to submitting an application for an air quality permit. This would allow for a more accurate evaluation of the well's potential emissions before a permit is issued, and would avoid

lengthy and costly permit processes for wells that may not actually operate beyond the completion date.

Accordingly, ARM 17.8.743 would be amended to exclude oil and gas well facilities from the requirement of submitting an application for a Montana air quality permit 180 days prior to construction.

New Rule I would define the phrases used in the new rules, based on definitions of the same phrases in 75-2-103(13) and 75-2-211(2)(b), MCA.

New Rule II would specify the potential to emit permitting threshold for oil and gas well facilities and would require the owner or operator of oil and gas well facilities completed or modified after March 16, 1979, to submit an application for a permit within 60 days after the completion date of the well or by January 3, 2006, whichever is later.

New Rule II also would allow oil and gas well facilities completed prior to January 3, 2006, to delay compliance with New Rule III until July 1, 2006. This would allow owners and operators of existing oil and gas wells sufficient time to retrofit those existing wells with appropriate emissions control technology if necessary.

New Rule III would contain the requirements for controlling emissions of VOCs and HAPs from oil and gas well facilities until the Department's decision on the air quality permit application is final. While it is reasonably necessary to allow oil and gas well facilities to complete the well drilling prior to requiring submittal of an air quality permit application, it is equally necessary to require the well facility to operate appropriate air pollution control equipment until its air quality permit becomes final. Under current air quality permitting requirements, sources of air pollution are required to install and operate "best available control technology" (BACT) in order to protect public health and the environment. The specific air pollution control requirements contained in New Rule III mirror the requirements contained in recently issued permits for oil and gas well facilities and therefore constitute presumptive BACT with which the well facilities will have to comply until facility specific requirements are established through the permit.

New Rule IV would contain requirements to conduct monthly leak detection inspections and repair any detected leaks.

New Rule V would contain recordkeeping requirements concerning leak detection and repair.

New Rule VI provides that the effective date of the new rules would be January 1, 2006.

5. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or emailed to ber@mt.gov, no later than 5:00 p.m., October 11, 2005. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Katherine Orr, attorney for the Board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

7. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; emailed to ber@mt.gov; or may be made by completing a request form at any rules hearing held by the Board.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

David M. Rusoff
DAVID M. RUSOFF
Rule Reviewer

BY: Joseph W. Russell
JOSEPH W. RUSSELL, M.P.H.,
Chairman

Certified to the Secretary of State August 1, 2005.